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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Third periodic reports of States parties due in 1996

Addendum

SWEDEN *

[9 August 1996]

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* For the initial report of Sweden, see CAT/C/5/Add.1; for its consideration, see CAT/C/SR.10 and 11 and Official Records of the General Assembly, Forty-fourth session, Supplement No. 46 (A/44/46), paragraphs 39-75. For the second periodic report, see CAT/C/17/Add.9; for its consideration, see CAT/C/SR.143, 144, 144/Add.2 and Official Records of the General Assembly, Forty-eighth session, Supplement No. 44 (A/48/44), paragraphs 365-386.

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Introduction

1. The Swedish Government submitted its initial report in October 1988 (CAT/C/5/Add.1) and its second periodic report in September 1992 (CAT/C/17/Add.9) pursuant to article 19 of the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.

2. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment visited Sweden from 5 to 14 May 1991 (as reported in the second periodic report, para. 2) and from 23 to 26 August 1994. The Committee's reports include recommendations, comments and requests for information. However, no allegations or indications of torture are mentioned in the reports. The reports have been made public.

I. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

3. The information provided in Sweden's initial and second periodic reports still applies with reference to articles 1-2, 6-7, 9 and 11-15 of the Convention (paras. 19-26, 50-73 and 79-100 of the initial report and paras. 3 and 7 of the second periodic report).

Article 3

4. The information supplied in the initial report (paras. 4-6) concerning Sweden's policy of non-refoulement still applies, i.e. an alien refused entry or expelled or who is going to be extradited, may never be transferred to a country where there is firm reason to believe that he would risk being subjected to torture, nor to a country where he is not protected from being sent on to a country where he would run such a risk (Aliens Act, chap. 8, sect. 1, and sect. 8 of the Act concerning Extradition for Offences).

5. In order to assess the risk a person runs of being subjected to torture in any given country, the Swedish Immigration Board and the Aliens Appeals Board are obliged to evaluate the prevailing situation in the country in question. The assessment is based on information from available sources, including the Swedish Ministry for Foreign Affairs, the Office of the United Nations High Commissioner for Refugees and well-established international human rights organizations such as Amnesty International. The immigration authorities further acquire useful information and knowledge by interviewing asylum seekers from different countries and by undertaking fact-finding missions to countries of special interest every year.

6. Furthermore, an individual assessment is made in each case. If there is firm reason to believe that the asylum seeker runs a risk of being subjected to torture in his country of origin, the Aliens Act strictly forbids his transferral to that country. In the assessment, the asylum seeker's personal history and his own evaluation of the situation are also taken into account.

Article 4

7. As was reported in the initial report (para. 4), a basic provision relating to the protection from torture and other cruel, inhuman or degrading treatment or punishment is found in the Constitution of Sweden, and prohibits the use of torture and any medical intervention for the purpose of influencing statements (Instrument of Government, chap. 2, sect. 5). In 1995, however, the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms was incorporated into Swedish law. This introduced into Swedish law another basic provision prohibiting torture: article 3 of the European Convention states that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment". Furthermore, protection against torture is offered under a number of provisions in the Penal Code (see paras. 8 and 9 below).

8. As reported in the initial report (paras. 31-45), the Penal Code contains provisions relating to acts involving the infliction of such severe pain or suffering, whether physical or mental, that they amount to torture within the meaning of article 1 of the Convention, if they are committed for any of the reasons mentioned there.

9. Some examples of provisions in the Penal Code that criminalize acts referred to in article 1 of the Convention are murder (chap. 3, sect. 1), kidnapping (chap. 4, sect. 1), unlawful deprivation of liberty (chap. 4, sect. 2), unlawful coercion (chap. 4, sect. 4), unlawful threat (chap. 4, sect. 5), assault (chap. 3, sect. 5), violation of domicile and unlawful intrusion (chap. 4, sect. 6), insult (chap. 5, sect. 3), rape (chap. 6, sect. 1), sexual coercion (chap. 6, sect. 2), sexual molestation (chap. 6, sect. 7) and interference in a judicial matter (chap. 17, sect. 10).

10. Pursuant to chapter 23, section 4, of the Penal Code, the penalty provided in the Code for an unlawful act shall not only be inflicted on a person who commits that act, but also on anyone who furthers such an act by advice or deed.

11. Anyone who has made an uncompleted attempt to commit an offence, such as kidnapping or unlawful deprivation of liberty, is liable for an attempted offence if there was a risk that the act would have led to the completion of the offence. The same applies if such a risk did not exist only because of accidental circumstances (Penal Code, chap. 23, sect. 1).

12. Thus, the acts referred to in article 1 of the Convention are criminalized, and the Swedish Government takes the view that existing Swedish law is in accordance with the obligations under article 4 of the Convention.

13. As to the argument put forward by the Committee against Torture at its 143rd meeting concerning the statistical benefits of a separate offence of torture in the Penal Code, an idea of the number of sentences imposed in such cases might be obtained from the Personnel Responsibility Committee of the National Police Board. During the period 1990-1991, there were three cases of violence against persons taken to police stations that led to convictions for assault. Between 1992 and May 1996, there were nine such cases (see para. 30 for some examples).

14. Clarification was requested by the Committee at the 143rd meeting as to the penalties prescribed for acts of torture. Some examples (e.g. assault) were given in the initial report (paras. 31-32), and at the 143rd and 144th meetings the Swedish representative explained that the penalties for torture differ, depending on what provision in the Penal Code is applicable. An act of torture leading to the death of the victim will, for example, be considered to be murder, for which the maximum penalty is life imprisonment.

15. It should be added that the penal scale prescribed for the petty grade of assault and battery was altered in 1993 and is now fines or imprisonment for not more than six months (chap. 3, sect. 5, of the Penal Code).

16. The penalties prescribed for some of the offences in the Penal Code are:

(a) Murder (chap. 3, sect. 1): imprisonment for 10 years or life;

(b) Kidnapping (chap. 4, sect. 1): imprisonment for four to 10 years or life, and if the crime is less grave imprisonment for not more than six years;

(c) Unlawful deprivation of liberty (chap. 4, sect. 2): imprisonment for one to 10 years, and if the crime is less grave, fines or imprisonment for not more than two years;

(d) Unlawful coercion (chap. 4, sect. 4): fines or imprisonment for at most two years, and if the crime is grave imprisonment for six months to six years. It should be noted that when judging the gravity of the crime special consideration shall be given to whether the act included the infliction of pain to force a confession or other torture;

(e) Unlawful threat (chap. 4, sect. 5): fines or imprisonment for not more than one year, and if the crime is grave, imprisonment for six months to four years.

17. In Sweden, the fixed term of imprisonment may not exceed 10 years unless more than one crime has been committed or the accused has a criminal record.

Article 5

18. There has been a change in paragraph 3 of chapter 2, section 3, of the Penal Code (referred to in para. 46 of the initial report). The provision now applies to crimes committed by a person employed in a so-called foreign contingent of the Swedish armed forces during service abroad. In paragraph 6 of that section, crime against public international law, unlawful dealing with chemical weapons and false or careless statement before an international court have been added to the list of offences.

Article 8

19. The one-year limit in section 7 of chapter 4 of the Aliens Act was removed in 1994 and the provision stating that an alien can be expelled from

Sweden if he is convicted of a crime now applies to all crimes for which imprisonment is included in the penalty scale, regardless of the length of imprisonment.

Article 10

20. The information in the initial report concerning training of police officers (para. 74) still applies.

21. The educational programme at the Police Academy includes information about different United Nations human rights conventions such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

22. The information in the initial report (para. 75) and in the second periodic report (para. 13) concerning training of prison staff still applies. According to a new educational programme, the students shall achieve knowledge of the European Prison Rules, the United Nations conventions of importance for prison and probation officers and of any international agreements concerning persons sentenced to imprisonment. Human values and ethics are of great importance in the design of the educational programme.

23. An unknown number of immigrants, including refugees, currently living in Sweden have been subjected to torture or have suffered other trauma before entering the country. In 1994 the Government decided to take action in order to improve the rehabilitation of tortured and traumatized people, and Parliament set aside Skr 50 million in total for this purpose, Skr 25 million for 1994/95 and Skr 25 million for 1995/96. Furthermore, almost every County Council has at its disposal at least one special unit aimed at the rehabilitation of immigrants who have suffered torture and other trauma.

Article 16

24. Most of the information provided in the previous reports still applies (paras. 101-120 of the initial report and paras. 16-22 of the second periodic report). However, the possibilities for detaining a foreign child under the age of 16 have been further limited. Chapter 6, section 3, of the Aliens Act now reads as follows:

> "An alien child under 16 may not be detained unless (1) it is probable that the child will be refused entry pursuant to chapter 4, section 1 or 2 and that an order for immediate enforcement under chapter 8, section 8 will be made or the question will arise of enforcing such a refusal-of-entry order, and there is an obvious risk that the child will otherwise conceal himself, thereby jeopardizing an impending enforcement which ought not to be delayed, or (2) the question arises of enforcement of a refusal-of-entry order in a case other than referred to in paragraph 1 or of an expulsion order pursuant to chapter 4, section 3 and, on a previous attempt being made to enforce the order, it has proved insufficient for the child to be kept under supervision as provided in section 5 (3).

"The child may not be detained as provided in subsection one if it is sufficient for him to be kept under supervision as provided in section 5 (2).

"The child may not be separated from his custodian or, if there is more than one custodian, from one of them as a result of the custodian or the child being detained. If the child has no custodian in this country, the child may only be detained if there are exceptional grounds for doing so."

25. The time a child may be detained has also been limited. A new paragraph 3 has been added to chapter 6, section 4, of the Aliens Act. It reads as follows:

"A foreign child under 16 may not be detained for more than 72 hours or, if there are exceptional grounds for doing so, for an additional 72 hours."

26. The 1986 Act concerning Disciplinary Matters Committed by Members of the Armed Forces is replaced by the Act (1994:1811) on Disciplinary Liability within the Total Defence System. This new Act contains provisions making it possible to impose disciplinary penalties not only on members of the armed forces, but also on others with a so-called total defence duty during their compulsory military or civilian duty.

27. As mentioned in the second periodic report (para. 20), the Act concerning Psychiatric Compulsory Care (1991:1128) and the Act concerning Forensic Psychiatric Care (1991:1129) both entered into force on 1 January 1992, replacing the 1966 Act concerning Institutional Psychiatric Care.

28. The National Board of Health and Welfare has evaluated whether the changes in the legislation concerning compulsory psychiatric institutional care have had the desired effect. In its report, the Board states that they have; the conditions for a continued decrease of the usage of compulsory measures have been improved.

29. In order to evaluate whether the legislation has had the desired effect on individual rights, there is, however, a need for research to be carried out over a lengthy period of time. The Government, therefore, has appointed an independent commission which will further investigate and evaluate the legislation. The commission shall, inter alia, examine the use of compulsory care and compulsory measures, the use of coercion and the legal rights of the individual. The commission shall present its report to the Government at the end of 1997.

Police

30. Since the previous report submitted in 1992 a few policemen have been sentenced by the court to fines. All the cases concerned assault, except one in which a policeman was convicted of causing bodily injury when his police dog bit a man. The majority of the cases involved petty assault e.g. the case in which a police inspector assaulted a detained woman by dragging her by her hair, and led to conditional sentences or fines.

Prisons

31. There have been two cases of assault committed by prison guards against prisoners since 1992, one of which was considered to be aggravated assault. Both cases led to imprisonment and dismissal of the prison guards.

32. Three prison officers have been convicted of misuse of office and received conditional sentences and fines. They had participated in the transport of a prisoner who, during the transport, died of suffocation. The transport was not conducted according to the regulations. The prisoner was mentally ill and aggressive, and the prison officers placed him on the floor of the transport vehicle, handcuffed and shackled, which made it almost impossible for him to move. The court did not find that the prison officers had caused the death of the prisoner, but that they did not follow the regulations concerning transport. After this incident, the National Prison and Probation Administration changed the rules for transport of persons in custody.

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

33. The clarifications and other information requested by the Committee during its consideration of Sweden's second periodic report have been presented under the relevant articles of the Convention under Part I of this report.

34. If the Committee needs further information or material about the situation in Sweden, the Swedish Government will be happy to supply it with the necessary completions.

List of annexes *

1. The Swedish Instrument of Government

2. Extracts from the Swedish Penal Code

3. Extracts from the Swedish Aliens Act (1989:529)

4. The Act on Disciplinary Liability within the Total Defence System (1994:1811)

5. The Act concerning Extradition for Offences (1957:688)

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* These annexes are available for consultation in the files of the United Nations Centre for Human Rights.